

REMARKS

In this Response, Applicant cancels claims 25, 27, 29, 34, 36, 41 and 42 without disclaimer or prejudice. Applicant adds new claims 44-48. No new matter is added.

Claims 44-48 are currently pending, of which claims 44, 46 and 48 are independent. Applicant respectfully submits that all of the pending claims are in condition for allowance.

I. Rejection of Claims 1-3, 7, 8, 11 and 23-43 under 35 U.S.C. § 103(a)

In the Office Action mailed February 11, 2008, claims 1-3, 8, 11, 23-29 and 31-43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0194264 to Uchiyama et al. (hereafter “Uchiyama”) in view of U.S. Patent Application Publication No. 2002/0032752 to Gold et al. (hereafter “Gold”).

In the Office Action mailed February 11, 2008, claims 7 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Uchiyama and Gold as applied to claim 1, and further in view of U.S. Patent Application Publication No. 2002/0133562 to Newman et al. (hereafter “Newman”).

Claims 1-3, 7, 8, 11 and 23-43 are canceled. As such, the above 35 U.S.C. § 103(a) rejections are moot.

II. New Claims 44-48

Applicant respectfully submits that new claims 44-48 are allowable in view of the cited references.

A. New Independent Claim 44

Applicant respectfully submits that Gold, Newman and Uchiyama, and Newman, alone or in any combination, fail to disclose, teach or suggest at least the following features of independent claim 44: “transmitting the request message from the mobile telephone to the jukebox apparatus over the communication channel, the request message being transmitted as a Short Message Service (SMS) text request message... transmitting the confirmation message

from the jukebox apparatus to the mobile telephone over the communication channel as an SMS text confirmation message” and “constructing a request message with alphanumeric characters on the mobile telephone, the request message comprising: an identification code for a track that is being requested to be played on the jukebox apparatus, and a dedication word to be displayed on the public display of the jukebox apparatus in association with playing of the requested track.”

Gold discusses a system for person-to-person song dedication using the Internet. Conventional techniques involve making radio tracks requests with an accompanying dedication via letter, postcard or telephone. Conventional techniques also involve making requests directly to DJ's at venues, such as discotheques, for a track to be played and/or a dedication to be read out. Gold uses a website to request a track and a dedication to be sent to a recipient (Gold, abstract).

However, Gold does not disclose, teach or suggest sending any messages in a Short Message Service (SMS) message format. More specifically, Gold does not disclose, teach or suggest “transmitting the request message from the mobile telephone to the jukebox apparatus over the communication channel, the request message being transmitted as a Short Message Service (SMS) text request message... transmitting the confirmation message from the jukebox apparatus to the mobile telephone over the communication channel as an SMS text confirmation message,” as recited in claim 44.

In addition, Gold does not disclose, teach or suggest using a mobile telephone to make a request. More specifically, Gold does not disclose, teach or suggest “constructing a request message with alphanumeric characters on the mobile telephone,” as recited in claim 44.

Furthermore, Gold does not disclose, teach or suggest displaying a user-composed dedication word on a public display of a jukebox apparatus. More specifically, Gold does not disclose, teach or suggest “the request message comprising... a dedication word to be displayed on the public display of the jukebox apparatus in association with playing of the requested track,” as recited in claim 44.

The addition of Newman does not cure the deficiencies of Gold with respect to claim 44.

Newman discusses an interactive Internet-based system and method which provides a number of components that can be used to provide interactivity, including cat, polling, and trivia functionalities, particularly for use in enhancing other events, such as television programs (Newman, abstract).

However, Newman does not disclose, teach or suggest sending any messages in a Short Message Service (SMS) message format. More specifically, Newman does not disclose, teach or suggest “transmitting the request message from the mobile telephone to the jukebox apparatus over the communication channel, the request message being transmitted as a Short Message Service (SMS) text request message... transmitting the confirmation message from the jukebox apparatus to the mobile telephone over the communication channel as an SMS text confirmation message,” as recited in claim 44.

In addition, Newman does not disclose, teach or suggest using a mobile telephone to make a request. More specifically, Newman does not disclose, teach or suggest “constructing a request message with alphanumeric characters on the mobile telephone,” as recited in claim 44.

Furthermore, Newman does not disclose, teach or suggest displaying a user-composed dedication word on a public display of a jukebox apparatus. More specifically, Newman does not disclose, teach or suggest “the request message comprising... a dedication word to be displayed on the public display of the jukebox apparatus in association with playing of the requested track,” as recited in claim 44.

The addition of Uchiyama does not cure the deficiencies of Gold and Newman with respect to claim 44.

The Uchiyama system uses a Dial Toner Multi-Frequency (DTMF) server (52) (Uchiyama, [0034]). The system acts like any call centre using a tone capable phone. A key is pressed, a unique tone is generated and that is received by the DTMF so that the key can be recognized and the appropriate action taken. During interaction in Uchiyama, **a dedicated telephone connection is left open** between the mobile telephone and the system - the end user first dials the number displayed on the public display (Uchiyama, [0032]). Once an interactive

sequence is started, the phone is not hung up until the sequence is complete (Uchiyama, Figure 7).

In contrast, the method of claim 44 recites transmitting a request message and a confirmation message in SMS format. SMS, in contrast with regular telephone calls, **does not require a dedicated line**. An SMS message is first composed with a number of characters - as many as may be desired up to the capacity of the network. The message is then transmitted from the mobile phone to the jukebox apparatus as a purely private transaction between the user and the system. There is no need for a dedicated telephone line to a central telephone number to be kept open until interaction is over. Thus, in the SMS transmissions recited in claim 44, a text message is composed off line, and a brief connection is made to the SMS messaging service.

Uchiyama does not disclose, teach or suggest transmitting messages in SMS format, as required by claim 44. Uchiyama discusses sending messages via a telephone call, which requires a dedicated telephone connection to be kept open. This will involve high call charges from the mobile phone network operator in Uchiyama. This problem is exacerbated in Uchiyama by the need to go through the menu system and to use single key strokes for selections, making selecting a track a lengthy process. In addition, Uchiyama only addresses selecting a track, and does not disclose, teach or suggest transmitting a confirmation message back to the user's telephone.

As such, Uchiyama also does not disclose, teach or suggest "transmitting the request message from the mobile telephone to the jukebox apparatus over the communication channel, the request message being transmitted as a Short Message Service (SMS) text request message... transmitting the confirmation message from the jukebox apparatus to the mobile telephone over the communication channel as an SMS text confirmation message," as recited in claim 44.

The Uchiyama system relies on menu selections and single key presses, and this selection process is displayed publicly. Since the interaction in Uchiyama is always displayed on the public display, it would ruin the effect of a dedication word. Even before the track is played, everybody would see the wording of the dedication being entered in Uchiyama. In contrast, the method of claim 44 displays the dedication word only in association with the playing of the requested track.

As such, Uchiyama does not disclose, teach or suggest “the request message comprising... a dedication word to be displayed on the public display of the jukebox apparatus in association with playing of the requested track,” as recited in claim 44.

As such, Applicant respectfully submits that Gold, Newman and Uchiyama, alone or in combination, fail to disclose, teach or suggest all of the features of claim 44.

B. New Dependent Claim 45

New dependent claim 45 depends from independent claim 44, and includes all of the patentable features of claim 44. Claim 45 introduces an additional feature - sending a search request by SMS text messaging and receiving a search response by SMS text messaging. Applicant respectfully submits that Gold, Newman and Uchiyama, alone or in combination, fail to disclose, teach or suggest this feature of claim 45.

C. New Independent Claim 46

Applicant respectfully submits that Gold, Newman and Uchiyama, alone or in any combination, fail to disclose, teach or suggest at least the following features of independent claim 46: “transmitting the search message from the mobile telephone to the jukebox apparatus over the communication channel, the search message being transmitted as an SMS text search message... transmitting the search response message from the jukebox apparatus to the mobile telephone over the communication channel, the search response message being transmitted as an SMS text search response message... transmitting the request message from the mobile telephone to the jukebox apparatus over the communication channel, the request message being transmitted as an SMS text request message... transmitting the confirmation message from the jukebox apparatus to the mobile telephone over the communication channel as an SMS text confirmation message.”

As discussed above, a combination of Gold, Newman and Uchiyama does not disclose, teach or suggest transmitting messages in SMS.

As such, Applicant respectfully submits that Gold, Newman and Uchiyama, alone or in combination, fail to disclose, teach or suggest all of the features of claim 46.

D. New Dependent Claim 47

New dependent claim 47 depends from independent claim 46, and includes all of the patentable features of claim 46. As such, Applicant respectfully submits that Gold, Newman and Uchiyama, alone or in combination, fail to disclose, teach or suggest all of the features of claim 47.

E. New Independent Claim 48

Applicant respectfully submits that Gold, Newman and Uchiyama, alone or in any combination, fail to disclose, teach or suggest at least the following features of independent claim 48: “transmitting the request message from the mobile telephone to the jukebox apparatus over the communication channel, the request message being transmitted as a Short Message Service (SMS) text request message... transmitting the confirmation message from the jukebox apparatus to the mobile telephone over the communication channel as an SMS text confirmation message.”

As discussed above, a combination of Gold, Newman and Uchiyama does not disclose, teach or suggest transmitting messages in SMS.

As such, Applicant respectfully submits that Gold, Newman and Uchiyama, alone or in combination, fail to disclose, teach or suggest all of the features of claim 48.

CONCLUSION

In view of the above claim amendments and remarks, Applicant believes that the pending application is in condition for allowance. If a telephone conversation with Applicant's attorney would help expedite the prosecution of the above-identified application, the Examiner is respectfully urged to call the undersigned attorney at (617) 227-7400.

If any additional fee is due with this statement, please charge our Deposit Account No. 12-0080, under Order No. FBU-001RCE, from which the undersigned is authorized to draw.

Dated: March 11, 2009

Respectfully submitted,

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